

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7902

BILL NUMBER: HB 1737

DATE PREPARED: Feb 26, 1999

BILL AMENDED: Feb 25, 1999

SUBJECT: Licensure of midwives.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill establishes the Indiana Midwifery Board and sets qualifications for a licensed certified professional midwife (licensed CPM). Staggered terms are established for the initial members of the Indiana Midwifery Board. The bill makes it a Class B misdemeanor to practice midwifery without a license. The Board must: (1) develop peer review procedures; (2) require the purchase of liability insurance as a condition for licensure when the Board determines liability insurance is sufficiently available; and (3) adopt rules limiting the scope of practice of licensed certified professional midwives to non-hospital settings.

The following persons are not civilly liable for acts or omissions relating to services provided to a woman who is under the care of a licensed certified professional midwife: (1) A health care provider who renders care in an emergency or (2) an employee, a student, an intern, a trainee, or an apprentice who acts under the direction and supervision of a licensed certified professional midwife.

The bill also requires the Office of Medicaid Policy and Planning (OMPP) to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement for licensed certified professional midwives. The bill also makes conforming amendments.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) Under current law, only midwives who are also registered nurses may practice midwifery (after obtaining a limited license from the State Board of Nursing). Any other person practicing midwifery commits a Class D felony. This bill provides for licensed certified professional midwife. The Health Professions Bureau reports that there are presently between 70 and 80 registered nurses with midwifery licenses. These individuals would be called certified nurse midwives under this proposal and would remain under the jurisdiction of the Board of Nursing, not the Indiana Midwifery Board created by this bill.

The bill establishes the seven-member Indiana Midwifery Board. The Board is responsible for overseeing the licensing process, establishing fees and continuing education requirements, supervising the peer review process, and preparing consent and other relevant forms. The estimated annual cost of travel and per diem for Board members for meetings is \$15,000. Other costs for postage, printing, telephone, and supplies are approximately \$5,500 annually. The total estimated annual cost for the Board is \$20,500. The Health Professions Bureau will provide staff to the Board, and any costs associated with these duties can be absorbed given its existing budget.

There will be additional costs for rule making to the Office of the Secretary of Family and Social Services, the Office of Medicaid Policy and Planning, and the Department of Insurance. These agencies should be able to absorb the costs associated with this bill given their current resources and appropriations.

Midwife Reimbursement Under the Medicaid Program: The bill also requires OMPP to seek a waiver from the U. S. Department of Health and Human Services to allow Medicaid reimbursement for licensed certified professional midwives. According to OMPP, federal financial participation is not available for services rendered by a midwife when the practitioner is not a registered nurse. The bill provides that if a waiver from these regulations was not granted, these midwifery services would not be reimbursable under Medicaid, and, thus, there would be no impact to the state.

However, if a waiver were to be granted, the bill adds licensed CPM's to the list of practitioners able to receive Medicaid reimbursement. This does not represent an expansion of Medicaid services, but if there currently tends to be some Medicaid recipients who receive midwifery services outside of the Medicaid program, and these practitioners would become reimbursable by Medicaid, there could be some additional expenditures to the Medicaid program. However, the increase is likely to small, if any.

Explanation of State Revenues: (Revised) The Board establishes fees for the examination and licensure of midwives. Presumably, fees will be set at a level designed to cover expenses. The amount of revenue that will be generated by this proposal is indeterminable but will depend on the number of CPMs who seek licensure. The Board may also impose fines of up to \$500 upon a person licensed under this article who violates certain provisions of this proposal.

The intentional practice of midwifery without a license constitutes a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the State General Fund could increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the State General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures: A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be

assessed, and if collected would be deposited into the county law enforcement continuing education fund.
(3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Health Professions Bureau, Office of the Secretary of Family and Social Services, Office of Medicaid Policy and Planning, and the Department of Insurance.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Gina Voorhies, Board Director, Indiana Board of Nursing, Health Professions Bureau, (317) 233-4405. Kathy Gifford, OMPP, 233-4455.